IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7155 OF 2004

Govind Tukaram Jadhav .. Petitioner.
Vs.
Vishwanath Bhimrao Patil & Ors. .. Respondents.

Mr.K.S.Patil for the petitioner.
Mr.R.V.More for respondent no.1.
Mr.S.K.Chinchalikar for respondent nos.2 and 3.

CORAM : D.B.BHOSALE, J.

DATED : 30TH SEPTEMBER, 2004

P.C.:

. Heard Mr.Patil, learned counsel for the petitioner, Mr.More, learned counsel for respondent no.1 and Mr.Chinchalikar, learned counsel for respondent nos.2 and 3.

2. This petition challenges the order passed in the appeal filed by respondent-defendant no.1 by which the order of the lower court dated 21.1.2003 passed below Exhibit-5 - application in Regular Civil Suit No.76/2002 has been set aside. I have perused the impugned judgment. The trial court while passing the interim order on 21.1.2003 had given directions to the petitioner-plaintiff to deposit the amount for final (Nimtana) measurement

and the Court Commissioner was directed to carry out measurement of the land in dispute. There is no dispute that the petitioner has given the undertaking that if the Nimtana measurement shows encroachment by him, he will vacate the disputed portion of land. Keeping that in view and considering the overall facts and circumstances of the case no interference is called for in the order impugned in the petition. I am informed that the case has ripe for hearing. In view thereof the trial is expedited. It is open for the parties to file an application for appropriate relief before the trial court and if any such application is filed same may be considered on merits in accordance with law.

. The petition is, accordingly, disposed of.

(D.B.Bhosale, J.)